

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CV 107

CHET LEE WEST,

Plaintiff,

v.

EVAN T. CARPENTER, of Nebraska, purported agent of
Secretary of Treasury of United States, and in "private
person" capacity; **CHRISTOPHER A. THOMPSON**, of
Nebraska, purported agent of Secretary of Treasury of
United States, and in "private person" capacity; **GARY**
HERMAN, of Nebraska, purported agent of Secretary of
Treasury of United States, and in "private person" capacity;
RICHARD W. TROESTER, of Nebraska, purported agent
of Secretary of Treasury of United States, and in "private
person" capacity; **DAVID E. ORTIZ**, Ft Dix F.C.I. CEO
(warden), purported agent of Attorney General of the United
States, and in "private person" capacity; **FNU ROBINSON**,
Unit Manager, purported agent of Attorney General of the
United States, and in "private person" capacity; **FNU**
MULLINS, Case Manager, purported agent of Attorney
General of the United States, and in "private person"
capacity; **FNU STEELE**, Livestock Counselor, purported
agent of Attorney General of the United States, and in
"private person" capacity; **UNKNOWN SEGREGATION**
REVIEW OFFICIAL OF SPECIAL HOUSING UNIT,
purported agent of Attorney General of the United States,
and in "private person" capacity; **ERIC BRADLEY**,
Loretto F.C.I. CEO (warden), purported agent of Attorney
General of the United States, and in "private person"
capacity; **MANISH PATEL**, BOP RRC official, purported
agent of Attorney General of the United States, and in
"private person" capacity; and **MATTHEW CASTLE**,
SECOR director, purported agent of Attorney General of the
United States, and in "private person" capacity,

Defendants.

ORDER

This matter is before the Court upon Plaintiff's "Response to Notice of Deficiency in Error by Clerk; Motion to Proceed" (Doc. 3) ("Response to Notice") filed on April 25, 2019.

Plaintiff filed his Complaint (Doc. 1) on April 3, 2019.

On April 4, 2019, the Clerk of Court issued a Notice of Deficiency (Doc. 2), advising Plaintiff that he must either file an application to proceed without prepayment of fees and affidavit, or pay the filing fee of \$400. The Notice directed Plaintiff to correct this deficiency within twenty-one (21) days from the filing of the Notice and advised Plaintiff that failure to do so may result in the dismissal of this action without prejudice.

On April 25, 2019, Plaintiff filed the Response to Notice in which Plaintiff asks the Court "to 'cure' the Notice of Deficiency, or dismiss it accordingly, and proceed with this action by issuing the provided summons to [the] defendants that they may timely answer and that justice may be served." (Doc. 3) at 3.

A liberal reading of this language suggests that Plaintiff may be seeking permission to proceed without the prepayment of fees or costs. The Response to Notice, however, is not clear in this regard and otherwise does not provide sufficient information upon which such a determination could be made.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's "Response to Notice of Deficiency in Error by Clerk; Motion to Proceed" (Doc. 3) is **DENIED WITHOUT PREJUDICE**;

2. Plaintiff is **DIRECTED**, within fourteen (14) days of the entry of this Order, either to:

- a. file a proper application to proceed in district court without prepaying fees or costs¹; or
- b. pay the filing fee of \$400.

3. Plaintiff is **ADVISED** that failure to comply with this Order may result in the dismissal of this action without prejudice.

Signed: April 30, 2019



W. Carleton Metcalf
United States Magistrate Judge



¹ A form Application to Proceed in District Court Without Prepaying Fees or Costs is accessible from this district's website.